



FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA

*A Historical Summary of the rights of the
Red Bluff First Nation*



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Ministry of Environment, Lands and Parks





MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

**FIRST NATIONS WATER RIGHTS IN
BRITISH COLUMBIA:**

*A Historical Summary of the rights of the
Red Bluff First Nation*

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Gary Robinson
Project Manager
Water Management Branch

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FIRST NATIONS WATER RIGHTS REPORT

BAND: Red Bluff (formerly Quesnel)

ADDRESS: P.O. Box 4693, Quesnel, B.C. V2J 5H8

CHIEF: Frank Boucher Jr.

PHONE: 747-2900 **FAX:** 747-1341

AFFILIATION: Carrier-Chilcotin Tribal Council

LOCATION:

The Red Bluff Band occupy 1689.4 acres (683.7 hectares) in reserve lands, including:

Dragon Lake No. 3
Quesnel No. 1

Rich Bar No. 4
Sinnce-tah-lah No. 2

Water rights have been issued only on Rich Bar No. 4, a 238.2 acre (96.4 ha) reserve located along the Fraser River, just south of the town of Quesnel.

According to the latest population figures compiled by the Ministry of Finance, the Red Bluff Band has 58 persons living on-reserve as registered members. The total population, including members living on- and off-reserve, is reported as 110.

The reserve, located in the Interior Plateau region of the Province, is classified as occurring in the Sub-Boreal Spruce Biogeoclimatic Zone. The Sub-Boreal Spruce Biogeoclimatic Zone is characterized by gently rolling plateaus. Rich Bar No. 4 occurs at elevations ranging from 1700 to 2000 feet above sea level, and experiences a climate in which average daily temperatures range from lows of -15 degrees centigrade in January to highs of less than 16 degrees centigrade in July. Average annual rainfall for the area totals between 50 and 100 cm.

Water courses of significance include:

- Rich Bar Creek - flows west through Quesnel 1, into the Quesnel River
- an unnamed lake - which may be the pondage at the headwaters of Rich Bar Creek located on Rich Bar #4.

WATER ALLOCATIONS:

There are no records of water allocations made by either the Lieutenant Governor-in-Council (Order in Councils) with respect to the Red Bluff Band. Further, the issue of water licenses in response to Federal Government applications, or actions to amend licensed rights, pursuant to provision in the *Water Act*, has not occurred.

The water rights of the Red Bluff Band have been determined by two actions of government over the years:

- 1) Allotments by the Indian Reserve Commissioners.

Following confederation, the Province and the Dominion established an Indian Reserve Commission. The Commissioners reserved lands for the Indians and were responsible for facilitating the transfer of the land to the Dominion authority. In setting apart lands for reserves, the Reserve Commissioner made it their practice to allot water with the lands. This practice was unique among Indian Reserves in Canada and the authority of the Commissioners to allot water rights has always been disputed by the Province.

- 2) Determinations of the Board of Investigation under the *Water Act*, 1914 in response to claims made by the Department of Indian Affairs. Often the Boards' Determinations recommended the issue of water licenses.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights and notes for the Red Bluff Band with respect to Rich Bar Creek are as follows:

Rich Bar Creek

History:

Feb 2, 1881

The Minute of Decision of the Indian Reserve Commission described a reserve of about 235 acres, situated on the left bank of the Fraser River, 4 miles below the mouth of the Quesnel River. This reserve was authorized

"the right to 100 inches of water from a lake at the head of Rich Bar ditch, and to the whole of the water from a small stream at the north end of Rich Bar flat."

The stream referred to is believed to be Rich Bar Creek. From the reference to a "235 acre reserve" we believe the allocation was intended for reserve Rich Bar No. 4.

The reference to an inch of water is understood to be a "miner's inch" of water. The Water Act of 1914 defined a miner's inch as being equal to a flow of .028 cubic feet per second. This rate of flow, calculated over a 120 day irrigation season, converts to the equivalent 6.664 acre feet for each miner's inch.

Sept 17, 1923

At a Final Hearing of the Board of Investigation, acting pursuant to the *Water Act of 1914*, the Board determined that a valid water record affecting the claim of the Department of Indian Affairs to rights to the use of the water's of Rich Bar Creek, was made under the authority of an Act passed prior to the 12th day of March, 1909. The Order of the Board numbered 4819, set out that a conditional license should be issued which would:

- (i) provide for the diversion of water from Rich Bar Creek;
- (ii) take precedence from the 27th day of January, 1890; and
- (iii) authorize the diversion of a maximum of 135 acre feet per year for irrigation purposes and 500 gallons of water a day throughout the whole year, for domestic purposes.

Nov 3, 1924

The Comptroller of Water Rights issued Conditional Water License 7809, which embodied the terms and conditions set out in Board Order 7107.

Feb 2, 1935

The Comptroller of Water Rights canceled Conditional License 7809 for failure to construct the authorized works.

Current Status:

Currently there are no licenses registered on Rich Bar Creek.

The Water Survey of Canada has no streamflow records for Rich Bar Creek and there is no current information on water availability.

Notes:

1. The water allocation made to the Red Bluff Band by the Indian Reserve Commission has not been formally recognized by the Province.
2. The rights granted to the Red Bluff Band under Conditional License 7809 are significantly less than the rights allocated by the Indian Reserve Commission.
3. Conditional License 7809 was canceled in 1935. The Band currently does not hold rights on Rich Bar Creek.

Unnamed Lake**History:**

Feb 2, 1881

A Minute of Decision of the Indian Reserve Commission described a reserve of about 235 acres, situated on the left bank of the Fraser River, 4 miles below the mouth of the Quesnel River. The reserve was authorized:

"the right to 100 inches of water from a lake at the head of Rich Bar ditch, and to the whole of the water from a small stream (at the north end of Rich Bar flat."

The lake referred to in this Minute of Decision is believed to be the small lake found in Quesnel Reserve No. 1. From the reference to a "235 acre reserve" we believe the allocation was intended for the reserve Rich Bar No. 4.

Notes:

1. The water allocation made to the Red Bluff Band by the Indian Reserve Commission for water from an unnamed lake at the head of Rich Bar ditch has not been formally recognized by the Province.

OTHER INFORMATION:

Additional Water Records:

The *Schedule of Indian Reserves in the Dominion, 1913*, is a document published by the federal government, recording each Band's water allocations up to 1913. It is believed that these records are a compilation of Minute of Decisions, Order-in-Councils, and perhaps other documents; however, as original copies of these documents are unavailable, the dates and information cannot be verified.

Allocations in the *Schedule of Indian Reserves in the Dominion* for the benefit of the Red Bluff, which are inconsistent with our findings are:

<u>Reserve</u>	<u>Water Allocation</u>
Rich Bar No. 4	20 inches of water recorded from a creek at the north end of the reserve.

The creek is believed to be Rich Bar Creek.

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section found that no wells have been reported on Rich Bar Reserve No. 4.

As the provision of well information to the Groundwater Section is voluntary, the review should not be assumed to be complete.

Municipal Water Sources:

The proximity of the Rich Bar Reserve No. 4 to the Town of Quesnel presents the potential for water supply from connection to the municipal supply system. Reports of water use in 1994, for waterworks purposes for the City of Quesnel, indicated that 43 percent of the total amount of water authorized under license, was utilized. The licenses for waterworks purposes for the municipality authorize the diversion and use of water from Quesnel River and Baker Creek. The City of Quesnel is currently obtaining 100% of its water from groundwater sources.



Summary of Water Records

Red Bluff (formerly Quesnel) Band

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licee PUC/MOD & OIC Allotments	Comments
Rich Bar Creek	1881/02/02	Rich Bar #4		MOD			"the whole of the water from a small stream at the north end of Rich Bar Flat". (AGBC #590460)	Water Source: As outlined in MOD description, the source is believed to be "Rich Bar Creek". Water Allotments: Made by Indian Reserve Commission - NOT formally recognized by Province.
Rich Bar Creek	1890/01/27			CL 7809	Cancelled		135 AF/Irrigation 500 GAD/Domestic	CL 7809: Formally recognized Board Order 7107. <u>Cancellation</u> : Issued for "Failure to construct authorized works".
Unnamed Lake	1881/02/02	Quesnel #1		MOD			"100 inches of water from a lake at the head of Rich Bar Ditch". (AGBC #590460)	Water Source: As outlined in MOD description, the source is believed to be an unnamed marsh located on Quesnel 1. Water Allotments: Made by Indian Reserve Commission - NOT formally recognized by Province.

LEGEND:

Licence Types (Document Types)

CL: Conditional Licence
FL: Final Licence

Mechanisms for Allocation (Document Type)

OIC: Order-in-Council (as issued by the Lieutenant Governor in Council)
MOD: Minute of Decision (as recorded under the Indian Reserve Commission)
IRC: Indian Reserve Commission
AGBC: Attorney Generals Office of BC (followed by File #)

Allotment Units (Licence PUC/MOD & OIC Allotments)

GAD: Gallons a day
AE: Acre feet
CFS: Cubic feet per second

mission.

B.C.

24th 1882.

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10/10/82

2

C. A. Williams

Minutes of Decision.

Quinnell Indians.

A Reserve containing about 1380
acres, situated on the left bank of the
Fraser river, 2 miles below the mouth
of Quinnell river.

Commencing at a tree marked
Indian Reserve, on the left bank of the
Fraser at the northern extremity of the
flat on which the Indian Village is
built, and running due East 200 chains
thence due South 100 chains; thence due
West 100 chains; thence due North 60 chains
thence due West to the Fraser river, an
approximate distance of 55 chains; and
thence following the left bank of the
Fraser in a North-westerly direction to
the place of commencement.

Quinnell Indian Fishery.

Situated on the right bank of
Fraser river, directly opposite the
Indian

thence

Quebec
Quebec Indian (3)
Fishery. - Cont. -

Indian Village, and containing about 33 acres.

A 1386.
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Commencing at a post marked Indian Reserve, on the right bank of Fraser river S. 14 W. magnetic from the Indian Village flag pole, and running due South to the Northern boundary of the Baker ranch an approximate distance of 20 chains; thence due East along the said boundary to the Fraser, about 45 chains; and thence up the bank of the Fraser to point of commencement.

A Fishery Reserve on a small lake situated about 2 miles East of Quebec town, containing 40 acres.

Commencing at a Cottonwood tree at the edge of the lake, about 4 chains South-east of its outlet; and running due West 20 chains; thence due North 20 chains; thence due East 20 chains; and thence due South 20 chains to point of commencement.

Rich Bar

Quinnell Indians

4

Rich Bar Co. Atlaten

A reserve situated at Rich Bar on the left bank of Fraser river, about 4 miles below the mouth of Quinnell's river, containing 235 acres approximately.

Commencing at a Cottonwood tree, marked Indian Reserve, at the lower end of the flat, 30 yards South-west of an old mining cabin, and thence due North 30 chains, thence due West 20 chains, thence due North 30 chains, thence due West to the Fraser river (about 15 chains), and thence down the bank of the river to the point of commencement.

Also the right to 100 inches of water from a lake at the head of Rich Bar ditch, and to the whole of the water from a small stream at the North end of Rich Bar flat.

A grave in the middle of a field belonging to Mr. Danislow on the left bank of Quinnell's river, marked.

Quinnell Indians.

Graveyards, - Cont'd

marked by 4 stakes.

5

Commencing at the South-west corner stake and running due North 10 links; thence due East 10 links; thence due South 10 links; and thence due West 10 links to point of commencement.

A graveyard on the left bank of Fraser river, about a mile above the town, partly in a Chinaman's field, and marked by 4 stakes.

Commencing at the South-west corner, and running N. 45° W. magnetic 170 links; thence N. 66° E. 100 links; thence S. 45° E. 170 links; and thence S. 66° W. 100 links to point of commencement.

A grave in Quinnell town, between Front Street and the Fraser river, marked by 4 stakes.

Commencing at the Southern stake

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Quinn's Indians:

Graveyards, - Cor. Dr. Atkinson

6
7
Stake N. 33 W. magnetic 20 links; thence
N. 57 E. 20 links; thence S. 33 E. 20 links,
and thence S. 57 W. to point of commencement

A grave on Lot 4, Block VIII,
Quinn's town, marked by H. Stokes.

Commencing at the South-west-
corner stake, and running N. 18 W.
magnetic 10 links; thence N. 77 E. 15
links; thence S. 15 E. 16 links; and then
S. 72 W. 15 links to the point of commencement

J. R. Reilly
JRC

Quinn's Indians
July, 2nd 1881

QUESNELLE INDIANS.

7

Approved

Geo. A. Williams

Chief Com. H. M.

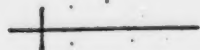
Victoria May 8th 1882.



FISHERY
40 acres



22.00



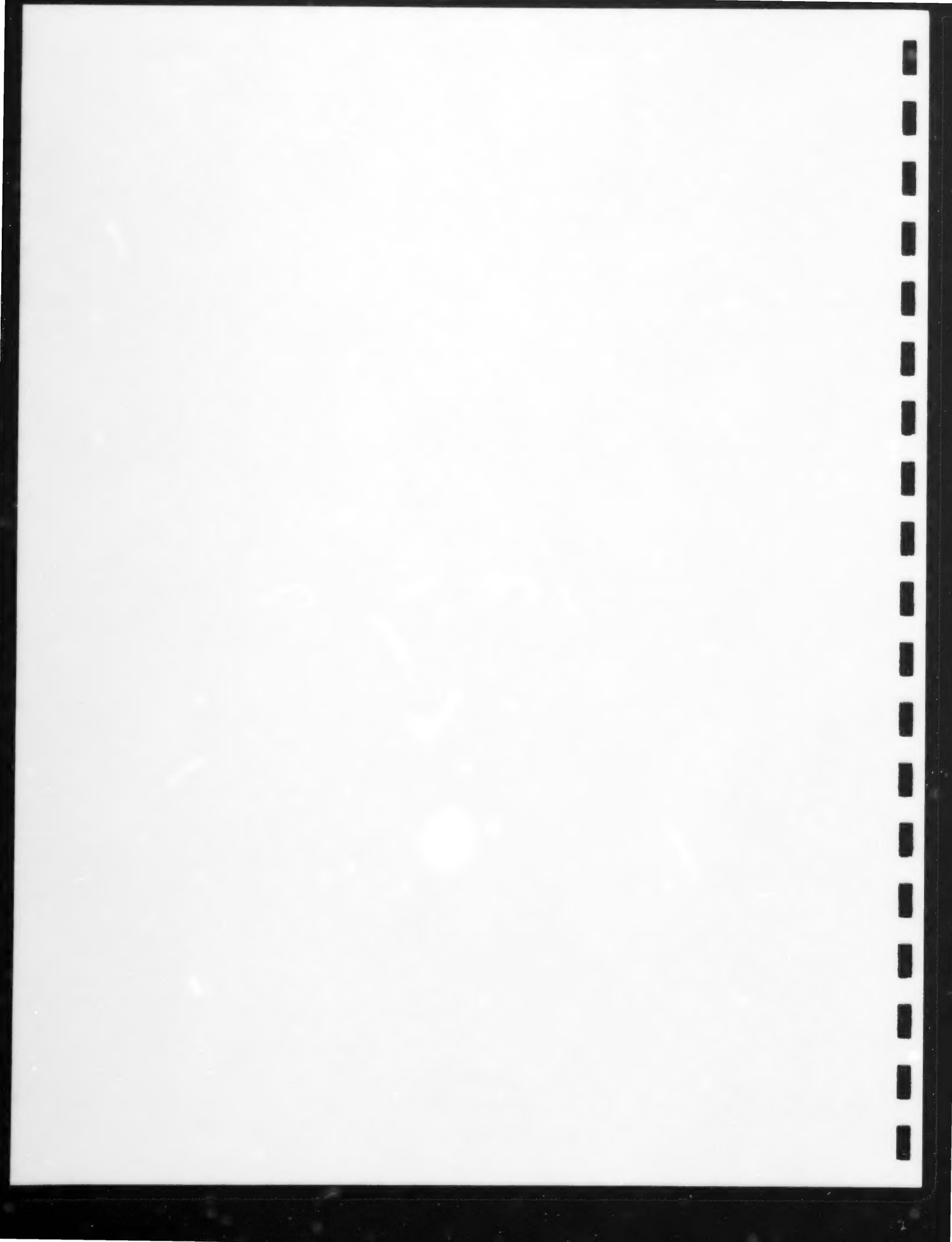
THE BAKER RIVER

SCALE 1 INCH = 20 CHAINS.

RICH BAR FLA
235 acres.



SCALE 1 INCH = 20 CHAINS.



PROVINCE OF
BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF
LANDS.

DETERMINATION AND ORDER

(FOR A CONDITIONAL WATER LICENCE FOR IRRIGATION PURPOSES.)

BY THE BOARD OF INVESTIGATION
UNDER THE "WATER ACT, 1914."

In the Matter of the Claims of the Department of Indian Affairs to Rights to the Use of the Waters

of Rich Bar Creek, a tributary of Fraser River,

in the neighbourhood of Williams Lake, in the

Quesnel Water District.

NOW, on the 17th day of September, 1923, the above-entitled matter coming on regularly for final hearing before the Board of Investigation; due notice having been given of the time and place of hearing; all and every the steps required under the Act to be taken by the Board before a determination of the said rights and claims should be made having been taken; all evidence, testimony, and proofs filed with the Board or presented in the above-entitled matter having been duly considered; a quorum of the Board being present at the hearing; and the Board being now fully advised in the premises, determines with respect to the said claims (which are on file and designated as Indian File No. 2-19-1) that a valid water record affecting the said claim was made under authority of an Act passed prior to the 12th day of March, 1909, and that under the said record the Quesnel tribe or band of Indians was granted a right to take and use water from Rich Bar Creek, a tributary of Fraser River, for irrigation and domestic purposes on the Rich Bar Indian Reserve, being Reserve No.4 of the said tribe or band.

2. The claims of the Department of Indian affairs with respect to the said waters are allowed by the Board to the extent hereinafter specified, and the Comptroller of Water Rights is hereby directed to issue a conditional licence in respect thereof embodying the following terms and conditions:—

(a.) The source of the water supply is Rich Bar Creek, a tributary of Fraser River.

(b.) The point of diversion from the said source is located as shown in the exhibit marked "A" hereto attached, which is incorporated herewith and made a part hereof, the original of which exhibit is on file in the office of the Comptroller of Water Rights, Parliament Buildings, Victoria, B.C.

(c.) The date from which the said licence shall take precedence is 27th November, 1890.

(d.) The purpose for which the water is to be used is irrigation.

(e.) The maximum quantity of water per annum which may be used when irrigation is extended to all the lands mentioned in subclause (g) of this clause, until lawfully altered,

is 135 acre-feet, and the maximum quantity of water which may be used per annum on each acre actually irrigated until lawfully

altered is 2½ acre-feet: Provided that where sources of supply other than those named in subclause (a) hereof are drawn upon for the irrigation of a part or all of the same lands as are described in subclause (g) hereof, the maximum quantity of water which may be used under the licence hereby directed to be issued shall be reduced by the quantity which the licensee may be entitled to use from said other sources of supply: Provided further that when the Engineer of the Water District has accumulated the requisite hydrographic data for determining to the satisfaction of the Comptroller the *pro rata* part of the said total quantity to be apportioned to the licensee hereby directed to be issued, the Comptroller shall require the surrender of the licence, and shall amend the same by stating the particular quantity to which the licensee is entitled from the particular sources named therein.

(f.) The period of the year during which the water may be used is between the first day of April and the thirtieth day of September.

(g.) The water may be used on the Rich Bar Indian Reserve (No. 4, Quesnel) of which 54

acres are said to be irrigable. The extent and location of the said irrigable lands are more particularly shown in the said Exhibit "A."

(h.) The works which are required to be constructed before the issue of a final licence are the clearing, stumping, and levelling of the irrigable lands on the said reserve and the additional works required for conducting thereto the maximum quantity of water hereby authorized to be diverted.

(i.) The execution of the said works shall be commenced or resumed on or before the first day of June, 1925, and shall be prosecuted with due diligence and in a workmanlike manner and to the satisfaction of the Comptroller of Water Rights.

(j.) The said works shall be completed and the quantity of water to which the licensee is entitled beneficially used for the purpose set out in the licence on or before the first day of November, 1930.

(k.) Before any change is made in the said works which would be a material deviation from the plans as approved or the works as accepted by the Comptroller, plans of such proposed change must be filed with the Comptroller and approved by him.

Board Order No. 7107.

ORIGINAL

(l.) The nature and the extent of the incidental uses permitted under the licence are: For domestic purposes, the use of 500 gallons a day of water from any or all the said sources of supply during the whole of the year; and for storage purpose, such quantity of water (not exceeding acre-feet) as, together with the natural flow-water used hereunder, will be necessary to secure to the licensee the quantity granted hereunder. The water which may be so stored shall be that of and it may be stored (accumulated) in a reservoir at

..... between the first day of October in each year and the first day of June in the succeeding year, and may be used as provided for in subclauses (d), (e), and (f) of this clause, but such uses shall not enlarge the quantity of water allowed by subclause (e) hereof.

- (m.) The Board may extend the time for the commencement, resumption, or completion of the execution of the works on being satisfied that it is in the public interest and that it will not injuriously affect the rights of any licensee.
- (n.) The licence shall not in any way be deemed to be a final licence for the use of water, but shall have the effect only of a conditional licence issued under Part V. of the "Water Act, 1914," and shall be subject to all the provisions of the said Act, including the filing of proof of the completion of the said works and the putting of the water to such beneficial use within the time limited by the provisions of section 117 of the said Act.

3. Pending the issue of the licence hereby authorized to be issued, the terms and conditions of this order shall govern the respective rights of the record-holders or claimants affected thereby.

Made and entered this day of 1921

THE BOARD OF INVESTIGATION.

By
and
Member.
Member.

PROVINCE OF
BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF
LANDS.

CONDITIONAL

WATER LICENCE.

(For a **n** **Irrigation** Purpose.)

WHEREAS the Board of Investigation, constituted and acting under the "Water Act, 1914," duly held an investigation respecting the water set out in the order No. **7107**, duplicate of which is hereto attached, and in the said order directed the Comptroller of Water Rights to issue a **conditional** licence in respect of the particular record and claim respectively set out therein, and further therein named the terms and conditions to be embodied in the said licence:

NOW, THEREFORE, I, Comptroller of Water Rights of the Province of British Columbia, in pursuance of the said order and in conformity with the "Water Act, 1914," issue this **conditional** licence, and declare the rights in and to the use of the said waters held under the said record in respect of the said claim to be such as are set out in the said order; and the terms and conditions of the said order and any exhibits which are therewith incorporated are hereby incorporated herewith and form a part hereof. This licence is appurtenant to **Rich Bar Indian Reserve (No. 4, Quesnel).**

Cancelled See 74-1935

For Discharge

1945

Made and entered this 2nd day of November, 1924

E. H. H. H.
Comptroller of Water Rights.

No. **7809**

ORIGINAL

WATER ACT

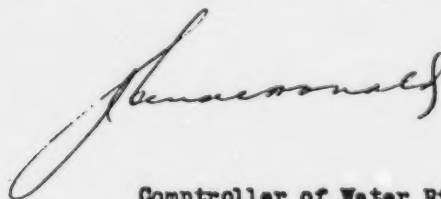
Section 74

CANCELLATION ORDER

BEFORE THE COMPTROLLER OF WATER RIGHTS:

In accordance with the notice of proposed
cancellation dated October 1st, 1934, Conditional
Licence 7809 is hereby cancelled.

DATED at Victoria, B.C., this 2nd day of February, 1935.



Comptroller of Water Rights.

File 2-19-1.

W A T E R A C T

Section 7 4

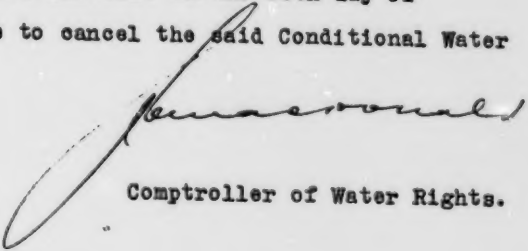
IN THE MATTER of Conditional Licence 7809,
dated the 3rd November, 1924, granted to the Depart-
ment of Indian Affairs, authorizing the diversion
and use of water from Rich Bar creek, a tributary of
Fraser River, for irrigation and domestic purposes
on Rich Bar Indian Reserve (No.4, Quesnel).

.....

YOU ARE HEREBY NOTIFIED that you have failed to prove
to my satisfaction:

- (a) that the construction of the works authorized under
the above-mentioned licence was begun within the
time fixed therefor, and
- (b) that the construction of the said works was
prosecuted with due diligence.

YOU ARE FURTHER NOTIFIED that on the 30th day of
October, 1934, I propose to cancel the said Conditional Water
Licence 7809.


Comptroller of Water Rights.

Dated at Victoria, B.C.,
this 1st day of October,
1934.

File 2-19-1.

A copy sent to:

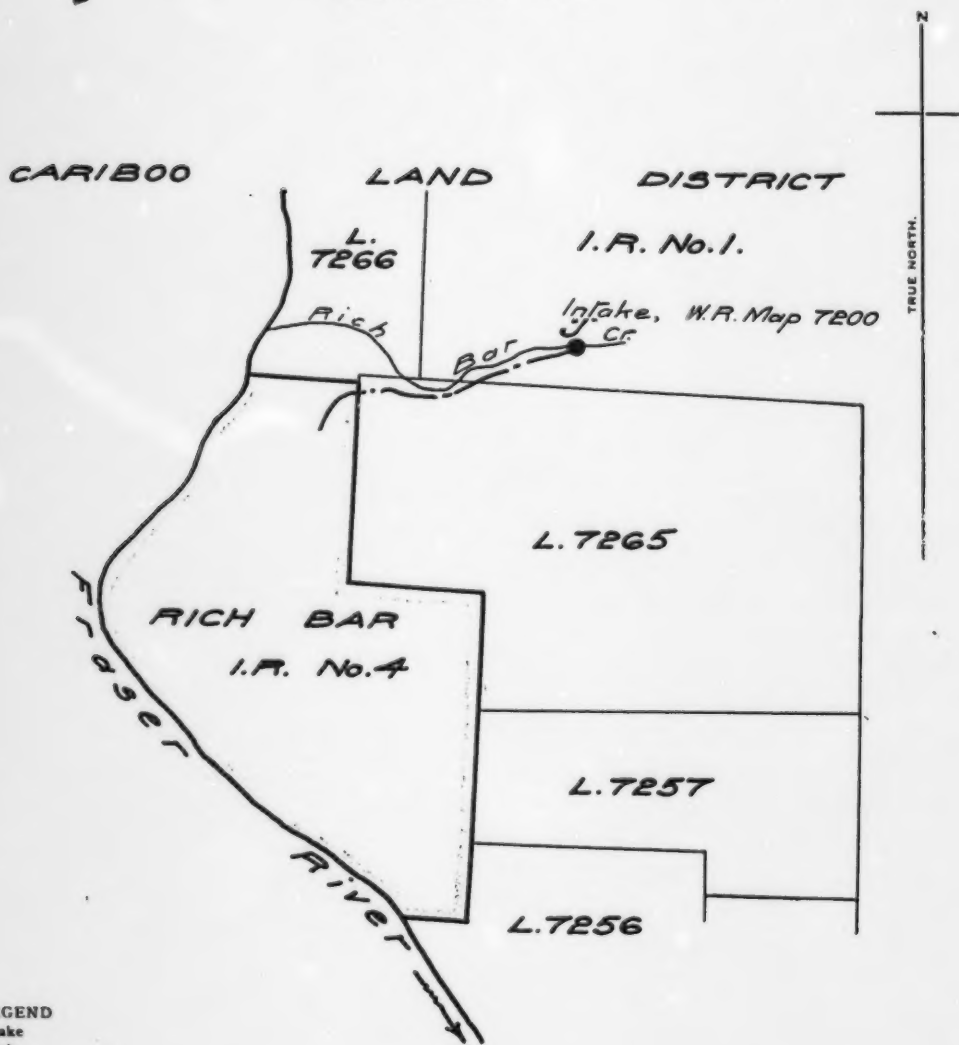
- ✓ The Supt. General of Indian Affairs, Ottawa.
- ✓ Mr. Perry, Victoria, B.C.
- ✓ Mr. Webb, Vancouver, B.C.
- ✓ Indian Agent, Williams Lake, B.C.
- ✓ District Engineer, Kamloops, B.C.

British Columbia

To accompany Board Order No. 7107

QUESNEL — WATER DISTRICT.

Scale, 20 Chains to 1 Inch.



LEGEND

Intake
Ditch
Road

The boundaries of the land to which this licence is appurtenant are shown shaded.

34 acres within the said boundaries are claimed to be irrigable.

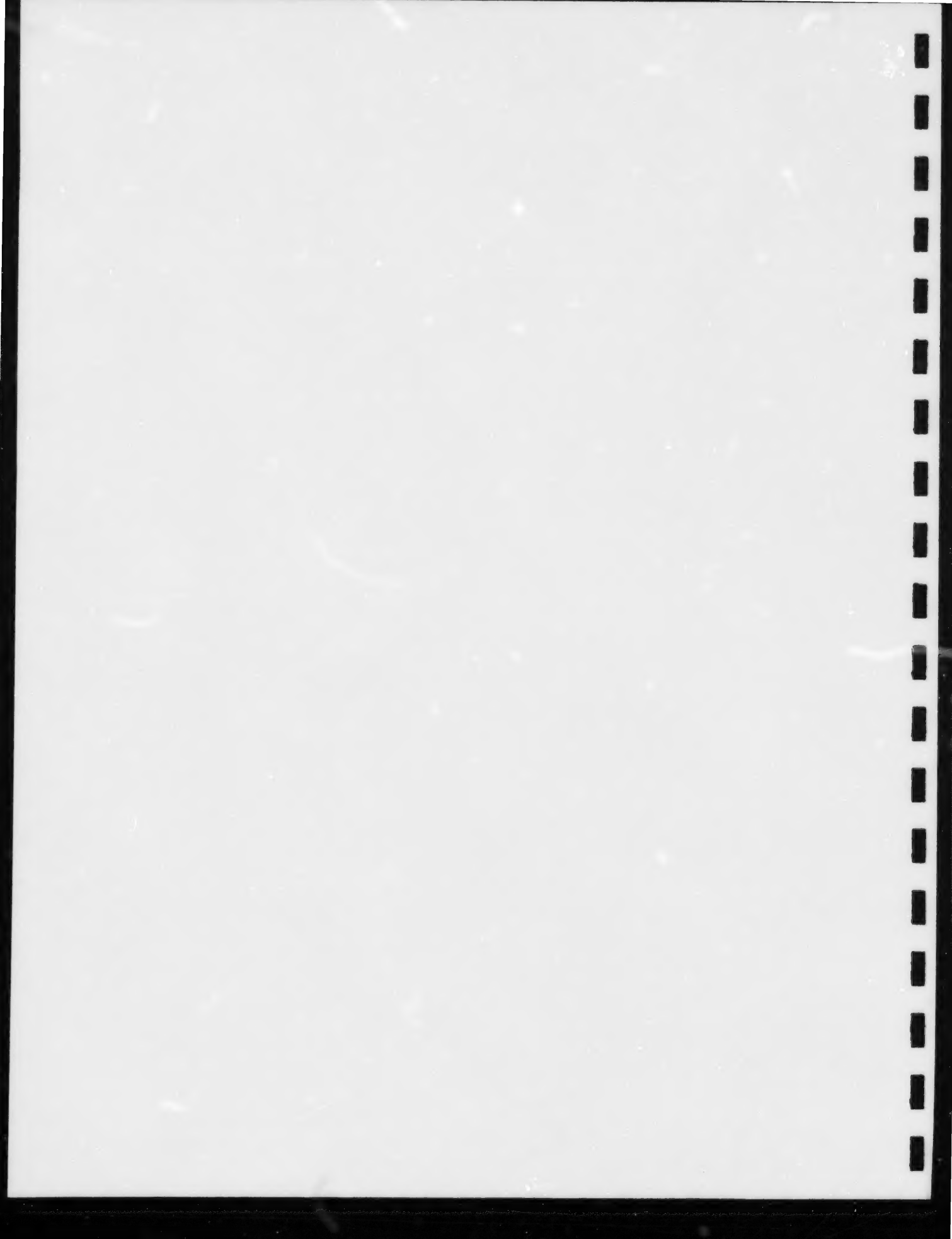
A. H. H.

EXHIBIT "A"

Description of Works constructed
Ditch & Flume

Signature

J. Alexander
J. Shane 3rd Nov. 1924
(C.L. 7809) B.O. 7107
File E-19-1

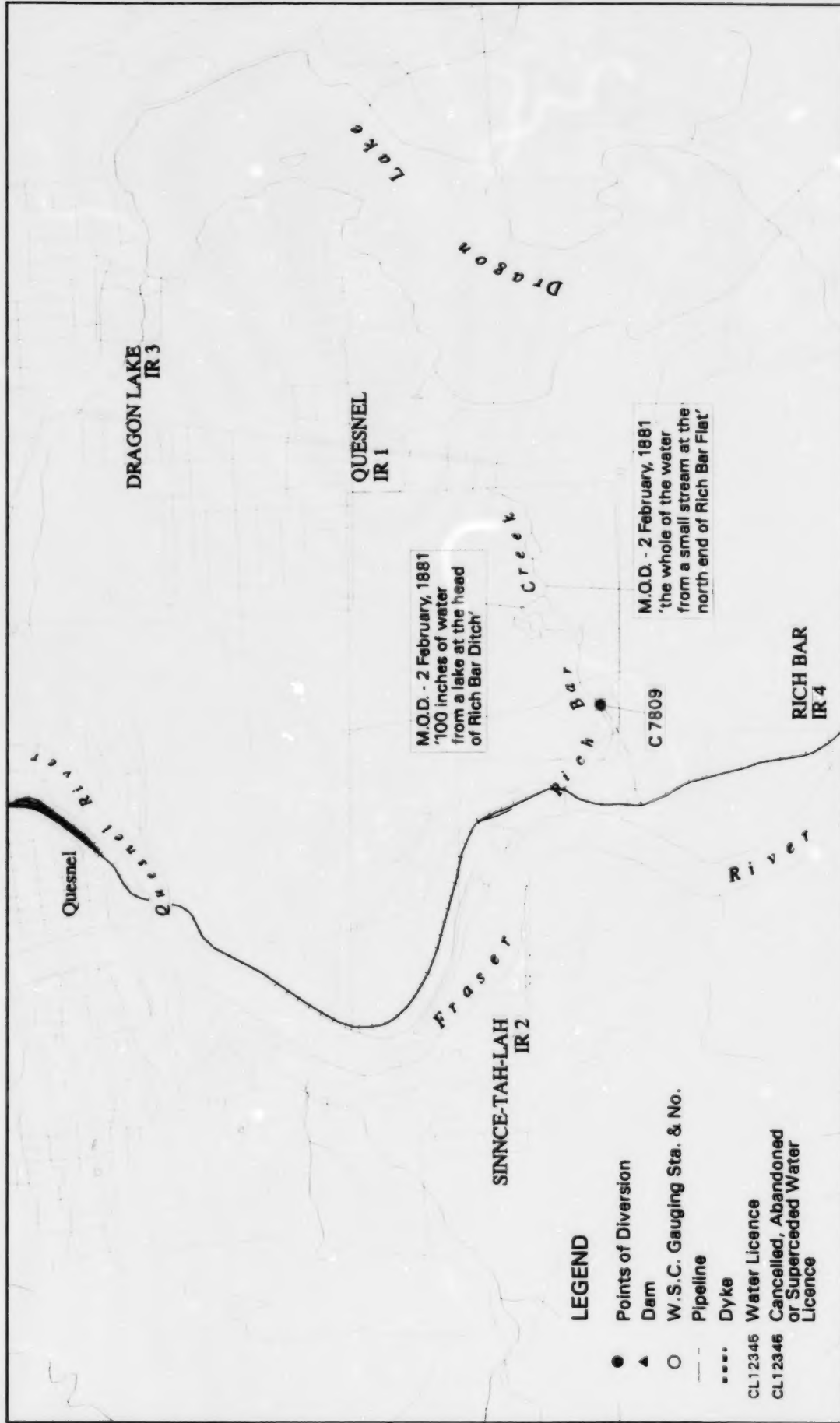


Stream Register Report Water Licence Information System

Report Requested By : J0221LL
Date Report Requested : 1995/10/20 15:10
Report Sorted By : Source Casel:ed - Priority Date - Licence Number
Selection Criteria
START POINT : 8030231 - Rich Bar Creek left of Fraser River
END POINT : 8030231 - Rich Bar Creek left of Fraser River

----- No Licences Reported -----

2	Lillooet district, on Dog creek, three miles and three quarters east of reserve No. 1.	540-00		
3	Lillooet district, on Dog creek, three quarters of a mile north northeast of reserve No. 2.	20-00		
3	Lillooet district, on the left bank of Fraser river above Dog creek and south of and adjoining Alkali lake reserve No. 6.	454-00		
1	Kluskus.....			Includes a grave-yard situated on lot 5, group 6, west of reserve No. 1, and containing 1 1/2 acres. The privilege of fishing on both banks of the Fraser river from the mouth of Dog creek up stream to the mouth of Harpers lake creek, a distance of one and one-half miles. Allotted by Comm'r. O'Reilly, July 19, 1881. Surveyed, 1883. Approved, June 4, 1884.
2	Kloyadingli.....	1,031-00		
3	Bundayman's Meadow.....	548-00		
4	Yaladclamide.....	80-00		
	Nasoo.....	173-00		Allotted by Commissioner Vowell, Sept. 28, 1881. Surveyed, 1883. Approved, Jan. 27, 1884.
1	Chilco Lake.....			
2	Garden reserve.....	1,146-00		Allotted by Comm'r. Vowell, Aug. 30, 1884. Approved, Feb. 10, 1885.
3	Fishery reserve.....	200-00		
4	Meadow reserve.....	80-00		
1		548-00		Allotted by Commissioner Vowell, September 20, 1889. Unsurveyed. Acreage only approximate.
2	Fishery.....	432-00		
3	".....	1,367-00		
4	Rich Bar.....	48-50		
		39-00		
		236-00		20 inches of water recorded from a creek at the north end of the reserve; a grave on the left bank of Quessel river, on lot 46; a grave on the left bank of Fraser river, 1 mile from the town of Quessel, containing .17 of an acre; a grave in Quessel town between Front street and the Fraser river; a grave on lot 4, block 8, Quessel town. Allotted by Commissioner O'Reilly, July 2, 1881. Surveyed, 1883. Approved, June 4, 1884.
1	Soda Creek.....	1,000-00		A record of 100 inches made July 21, 1880, to be taken from Soda creek.
	Cariboo district, on the left bank of Fraser river, southeast of the village of Soda Creek.			



Red Bluff

Scale 1:40,000

Date: March 15, 2000